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Attorneys for Plaintiff  
 United States of America

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	Criminal Case No. 08CR0091-WQH
	)	
Plaintiff,	)	DATE: March 17, 2008
	)	TIME: 2:00 p.m.
v.	)	Before Honorable William Q. Hayes
	)	
ALEJANDRO AMEZCUA-MANZO, and	)	UNITED STATES' MOTIONS FOR:
DELFINO BENITO-GUTIERREZ,	)	
	)	(1) RECIPROCAL DISCOVERY;
Defendant(s).	)	(2) LEAVE TO FILE FURTHER
	)	MOTIONS
	)	
	)	TOGETHER WITH STATEMENT OF
	)	FACTS AND MEMORANDUM
	)	OF POINTS AND AUTHORITIES

COMES NOW the plaintiff, UNITED STATES OF AMERICA, by and through its  
 counsel, Karen P. Hewitt, United States Attorney, and Aaron B. Clark, Assistant U.S. Attorney,  
 and hereby files its Motions in the above-referenced case. Said Motions are based upon the files  
 and records of this case together with the attached statement of facts and memorandum of points  
 and authorities.

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1 DATED: February 29, 2008.

2 Respectfully submitted,

3 KAREN P. HEWITT  
4 United States Attorney

5 s/ Aaron B. Clark  
6 AARON B. CLARK  
7 Assistant United States Attorney  
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Attorneys for Plaintiff  
 United States of America

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	Criminal Case No. 08CR0298-WQH
	)	
Plaintiff,	)	DATE: March 17, 2008
	)	TIME: 2:00 p.m.
	)	Before Honorable William Q. Hayes
v.	)	
	)	
ALEJANDRO AMEZCUA-MANZO, and	)	UNITED STATES' STATEMENT OF
DELFINO BENITO-GUTIERREZ,	)	FACTS AND MEMORANDUM OF
	)	POINTS AND AUTHORITIES
Defendant(s).	)	

**I**

**STATEMENT OF THE CASE**

The Defendant, Delfino Benito-Gutierrez (hereinafter "Defendant" or "Benito") and Alejandro Amezcua-Manzo ("Amezcua") were charged by a grand jury on February 6, 2008 with violating 8 U.S.C. §§ 1324(a)(1)(A)(ii) and (v)(II), transportation of illegal aliens and aiding and abetting. Both were arraigned on the Indictment on February 7, 2008, and entered pleas of not guilty.

**II**

**STATEMENT OF FACTS**

On the morning of January 24, 2008, United States Border Patrol Agents ("BP") Hays and Gonzalez were observing traffic near the intersection of Highway 78 and State Route 2 in Shelter

1 Valley, California. As they were parked they observed a white 1993 Buick Roadmaster traveling  
2 north on SR-2, and then turn east on Highway 78. Just as the vehicle turned east on Highway 78  
3 it made a u-turn and returned to SR-2 traveling south. The maneuver appeared suspicious to the  
4 agents, since the location is the site of a sometimes operational Border Patrol checkpoint and it is  
5 common for smugglers to scout the area.

6 Approximately five minutes later, Amezcua drove a white Ford F-150 truck past the agents  
7 while traveling north on the SR-2, then turning east on Highway 78. After the truck passed, the  
8 Buick again came into agents view, now traveling north on SR-2, then turning east on Highway  
9 78. Agents Hays and Gonzalez relayed this information to Agents Martinez and Ortega.

10 Agents Martinez and Ortega then pulled in behind the Ford truck and followed it east on  
11 Highway 78 until it turned north on SR-3 and parked at an empty campground within yards of the  
12 intersection. The agents then walked up to the truck and identified themselves as Border Patrol  
13 agents to Amezcua and Benito, and the five others lying down in the open bed of the truck. Upon  
14 questioning, Amezcua noted he was a legal permanent resident. Benito and the five other people  
15 in the bed of the truck admitted to being citizens and nationals of Mexico. They further stated  
16 individually that they had entered and were illegally present in the United States. Four of the five  
17 aliens in the bed of the truck appeared to be teenagers. Agents then placed Amezcua, Benito, and  
18 the five other aliens under arrest.

19 In a post-Miranda statement, Amezcua admitted he picked up and transported the aliens  
20 that had been waiting since the previous day. He stated he had received a call from Benito telling  
21 him that the aliens were freezing and needed a ride. Amezcua admitted that he knew some of the  
22 aliens were minors because Benito, while still in Mexicali, Mexico, had phoned Amezcua telling  
23 him that he was going to cross into the United States with several people, mostly minors.

24 Benito, in a post-Miranda interview admitted he is a Mexican citizen without documents  
25 to be in the United States legally. He also admitted calling Amezcua for a ride and directing him  
26 to the location where Amezcua picked him up, along with the five other aliens.



1 The United States also requests that the Court make such order as it deems necessary under  
2 Rules 16(d)(1) and (2) to ensure that the United States receives the discovery to which it is  
3 entitled.

4 In addition, Rule 26.2 of the Federal Rules of Criminal Procedure requires the production  
5 of prior statements of all witnesses, except a statement made by defendants. This rule thus  
6 provides for the reciprocal production of Jencks statements. The time frame established by the  
7 rule requires the statement to be provided after the witness has testified. To expedite trial  
8 proceedings, the United States hereby requests that Defendants be ordered to supply all prior  
9 statements of defense witnesses by a reasonable date before trial to be set by the Court. Such an  
10 order should include any form in which these statements are memorialized, including but not  
11 limited to, tape recordings, handwritten or typed notes and/or reports.

#### 12 IV

#### 13 LEAVE TO FILE FURTHER MOTIONS

14 Should new information or legal issues arise, the United States respectfully requests the  
15 opportunity to file such further motions as may be appropriate.

#### 16 V

#### 17 CONCLUSION

18 For the foregoing reasons, the Government respectfully requests that the Court grant the  
19 Government's motions.

20  
21 DATED: February 29, 2008.

22 Respectfully submitted,

23 KAREN P. HEWITT  
24 United States Attorney

25 s/ Aaron B. Clark  
26 AARON B. CLARK  
27 Assistant United States Attorney  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff

v.

ALEJANDRO AMEZCUA-MANZO, and  
DELFINO BENITO-GUTIERREZ,

Defendant(s).

Case No. 08CR0298-WQH

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, AARON B. CLARK, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, California 92101-8893.

I am not a party to the above-entitled action. I have caused service of UNITED STATES' MOTIONS on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

1. Gregory Murphy, Federal Defenders of San Diego
2. Marc X. Carlos

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 29, 2008.

s/ Aaron B. Clark  
AARON B. CLARK